

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1749 OF 2005

Montex Properties & Estate ... Petitioner
Pvt. Ltd. and anr.

V/s.

State of Maharashtra & Anr. ... Respondents

Mr. C.J. Sawant, Sr. Counsel with Mr. Pankaj Kansara
i/b. Pandya & Poonawala for the petitioner.
Mr. K.R. Belosey, AGP for respondent Nos. 1 to 3.
Mr. S.V. Sadavarte for respondent No. 4.

**CORAM : F.I. REBELLO &
 ANOOP V. MOHTA, JJ.
DATED : 28th November, 2006**

P.C.

. Rule. Heard forthwith.

2. The case of the petitioner is that they are the holders of the land. The respondents by their order dated 29th March, 2005 have passed an order for taking possession of the land as described in the said order. The contention of the petitioner is that considering the judgment of the Supreme Court in AIR 2003 Supreme Court 5 in the case of **State of A.P. & ors. V/s. N. Audikesava Reddy & ors.**, considering that the land under D.P. plan is reserved for the public purpose of Hall, Dharmshala, Temple, Students' Hotel and apart from that as no hearing was given to the petitioners, the order is liable to be set aside.

Considring that the matter involved civil consequences and as petitioners are holders of the land, we quash and set aside the order dated 29.03.2005 and remand the matter to respondent No.3. The respondent No. 3, after giving opportunity to the petitioners, to pass appropriate orders according to law.

2. Rule made absolute accordingly. No order as to costs.

[F.I. REBELLO, J.]

[ANOO P V. MOHTA, J.]